

Environmental Quality Council (EQC)
Water Policy Subcommittee

Meeting Minutes

September 22, 1999

Draft: October 17, 1999

Approved 10/21/1999

EQC Members Present

Senator Bea McCarthy, Chair *

Representative Bill Tash*

Mr. Jerry Sorensen

Senator Jon Tester*

Senator Ken Mesaros

* Water Policy Subcommittee Member

Staff Members Present

Mary Vandenbosch

Agenda ([Attachment 1](#))

Proposed Federal Total Maximum Daily Load (TMDL) Regulations

Ms. Vandenbosch referred to a packet of information ([Exhibits 1-5](#)) related to the TMDL regulations proposed by the U.S. Environmental Protection Agency (EPA). She directed the subcommittee's attention to a letter from Patrick Heffernan, Montana Logging Association regarding EPA's proposed regulations. Ms. Vandenbosch had requested input from various parties, including everyone who commented on the EQC's recent report related to TMDLs and others who participated in Water Policy Subcommittee meetings during the last interim. Mr. Heffernan was the only person to respond. She explained that the Statewide TMDL Advisory Group meeting scheduled for September 10 was postponed so there had not been an opportunity to hear comments from the Advisory Group members.

Ms. Vandenbosch noted that she had revised the *Draft Summary: EPA TMDL Rules in Comparison with Montana's Program*. The current draft ([Exhibit 4](#)) is dated September 20, 1999. She explained that the two sets of proposed regulations are complex and that it is difficult to evaluate their effect. The deadline for comments is October 22, 1999. The Association of State and Interstate Water Pollution Control Administrators (ASIWPCA) has decided to request an extension of the public comment period by 180 days.

Patrick Heffernan briefly described the concerns that the Montana Logging Association has about both sets of proposed regulations ([Exhibit 5](#)). Mark Simonich (Director, Department of Environmental Quality (DEQ)) stated that the DEQ was concerned that the proposed regulations would turn the TMDL program into a regulatory program. He noted that the DEQ has a team of staff who are reviewing the regulations and that the Board of Environmental Review would like to comment on the proposed regulations.

Subcommittee action: The subcommittee decided to recommend to the EQC that staff draft a letter to the EPA for review by the subcommittee. The letter would:

1. Request an extension of the public comment period by 180 days.
2. Request that the proposed rules allow two tracks for state TMDL programs. States that have adopted a comprehensive TMDL program that complies with section 303(d) of the Clean Water Act should be allowed to submit their program to EPA for approval. As long as the program complies with section 303 (d) of the Clean Water Act, the state should not have to modify its program to comply with the proposed regulations.

Proposed General Concentrated Animal Feeding Operation (CAFO) Permit

Senators Mesaros and Tester attended a public meeting to hear comments on the DEQ's proposed permit. Senator Tester noted that the meeting was not well-publicized and not well attended by affected parties. Senator Mesaros noted that concerns had been raised that the proposed permit might be too far-reaching in some respects, yet not adequate in others. He noted that some issues, such as odor, may require legislative action.

The deadline for comment on the proposed general permit has been extended until November 2, 1999 ([Exhibits 6-8](#)).

Subcommittee action: The subcommittee decided to hold a public meeting to hear comments on the proposed general CAFO permit in Great Falls on October 21, 1999. The subcommittee meeting will be coordinated with the Montana Environmental Policy Act (MEPA) subcommittee meeting. Director Simonich agreed the DEQ will help with the meeting. Ms. Vandenbosch will contact Rep. Holden about the meeting.

Letter to State Agencies re: Best Management Practices

In accordance with the subcommittee's draft work plan, Ms. Vandenbosch prepared a draft letter to state agencies ([Exhibit 9](#)), urging them to take action in response to Senate Joint Resolution (SJR 3). The resolution strongly urges state agencies to serve as role models for implementation and refinement of best management practices to reduce nonpoint source water pollution. Ms. Vandenbosch noted that, as drafted, the letter requests that the agencies report to the EQC and that this would require some time on the EQC's agenda.

Subcommittee action: The subcommittee recommended that the EQC send the letter to state agencies.

Subcommittee Work Plan

Subcommittee action: The subcommittee approved the work plan ([Exhibit 10](#)).

River Recreation

The committee reviewed a draft letter ([Exhibit 11](#)) to Mr. Hamilton, Director of the Montana State Office of the Bureau of Land Management (BLM). The letter requests information about the BLM's plans to mitigate the impacts of increased river recreation on water quality and riparian areas. The letter also asks about the BLM's plans to involve Montanans in the decision making process.

Ms. Vandenbosch called the subcommittee's attention to an editorial in the *Billings Gazette* on this issue ([Exhibit 12](#)).

Subcommittee action: The subcommittee decided to revise the letter to ask Mr. Hamilton to respond before the December 2, 1999 EQC meeting and to invite him to present his information to the EQC.

Legislative Council on River Governance

Ms. Vandenbosch stated that the Legislative Council on River Governance would meet November 5-7 in Portland.

Meeting adjourned.

Exhibits

1. "States, Dischargers Question Legality of EPA Impaired Waters Plans," *The Reinvention Report*, September 8, 1999.
2. *Western States Water* (September 3, 1999).
3. Letter from Dodson to Jamison dated December 8, 1998 re: TMDL Approvals-- Elk Creek.
4. Draft Summary: Proposed EPA TMDL Rules in Comparison with Montana's Program (September 20, 1999).

5. Letter from Patrick Heffernan to the Environmental Quality Council dated September 15, 1999.
6. Public notice and tentative MPDES General Permit to Discharge Process Waste Water from Concentrated Animal Feeding Operations (CAFOs).
7. Memorandum from Franklin Gessaman to Bonnie Lovelace dated September 3, 1999 re: Requested information on CAFO complaints and enforcement actions.
8. CAFO permits
9. Draft letter to state agencies re: SJR 3
10. EQC Water Policy Subcommittee Draft Work Plan (September 2, 1999).
11. Draft letter to Larry Hamilton from Water Policy Subcommittee dated September 22, 1999.
12. "State Should Lead River Protection Debate," *Billings Gazette*, August 29, 1999.